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STATE FOR EB/TPP, NEA/MAG AND NEA/OFI, STATE PASS USTR FOR  
1D. BELL, USDOC FOR ITA/MAC/ANE - DROTH

E.O. 12958: N/A  
TAGS: ETRD BEXP MO  
SUBJECT: PRESSING FOR CLARIFICATION OF MOROCCO'S  
TRANSHIPMENT RULES

REF: RABAT 453

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distribution.

11. (SBU) Summary and Action request; Commercial and Econ  
Counselors called on Ahmed Maani, Acting Director of  
International Cooperation of the Moroccan Customs  
Administration on August 10 to review the status of two  
recent cases where U.S. imports have been denied preferential  
entry into Morocco because they were transhipped via European  
ports, despite provisions in the bilateral Free Trade  
Agreement that appear to allow such transshipment. Maani, who  
is also head of Custom's Taxation Division, stressed that he  
was not in a position to render a judgement on the case since  
he was only filling in on a temporary basis. Nevertheless,  
he was aware of the two cases and said that Customs' initial  
determination was that the two shipments violated the "direct  
shipment" provisions of the accord as the relevant shipping  
documents did not indicate the original dispatcher, but  
instead the European subsidiaries transshipping the goods. In  
general, he said that Morocco's interpretation of the accord  
is that preferential treatment should only be accorded those  
goods that are transhipped for "legitimate transportation  
reasons," and that documents must show that the shipment  
originated in the U.S. and was destined for Morocco.

12. (SBU) Post notes that this interpretation differs to some  
degree from that applied in other Free Trade Agreements, and  
would appreciate Department and other agencies view of the  
matter, as well as information on how U.S. Customs is  
applying the provision. End Summary and Action request.

13. (SBU) Background: The first case involved shipment of  
chemicals from Du Pont DeNemours to Morocco via Du Pont's  
European subsidiary; the second a shipment of glass products  
from Solutia, Inc. to Morocco via its European subsidiary.  
In both cases, the companies indicate that the shipments were  
packaged with other shipments to other European and African  
destinations, and were transferred in Anvers to smaller  
containers and shipped on to Morocco. Both shipments were  
accompanied by a certificate of origin indicating their  
American provenance. For both shipments, however, the  
Moroccan bill of lading showed not the U.S. shipper but that  
shipper's European subsidiary as the originator.

14. (SBU) Maani, who was clearly briefed on the cases,  
stressed that he is overseeing the International Cooperation  
division on an interim basis, and is not in a position to  
render a decision but only to convey USG concerns to his  
superiors. He noted that the companies' appeals had been

received and transmitted to the Casablanca port for its input. Emphasizing the accord's three principles that goods must figure in the list of those benefitting from its provisions, must be of U.S. origin, and must be "directly shipped" to Morocco, he agreed that the final issue was the only one in question. While indirect shipments are permitted by the agreement, he said they are examined more closely, given the potential for abuse. In general, he said, Morocco understands that direct shipment may not be practical for logistical reasons. If transshipment is undertaken for transportation reasons it is acceptable. The shipping documents, he stressed, however, must show sourcing from the U.S. and a Moroccan final destination, and not European intermediaries. Resale, he added, is not permitted, nor any treatment other than discharge and reloading under Customs' control. He noted earlier discussions (reftel) regarding a shipment of California almonds that were shipped to Morocco soon after the Free Trade Agreement entered into force, that were also denied preferential treatment. Those almonds, he noted, violated the direct shipment provision both because they were stored in Europe in anticipation of the agreement, and because they were "bought from an intermediary."

15. (SBU) Asked whether the goods in these two cases should not benefit from the EU-Moroccan trade agreement, if Morocco is interpreting their origin as European, Maani said no, as the EU agreement stipulates a European certificate of origin, which could not be provided here. He added that certificates of origin are not required under the U.S. accord, though they are usually provided. Customs has the right to demand additional documents under the U.S. FTA, though it has not done so, since full enforcement of the allowed provisions would bring trade between the two countries to a standstill. He asked that we inquire about the way in which U.S. Customs is applying the provisions, but stressed that Morocco

believes it is operating within the letter and spirit of the accord.

16. (SBU) Comment: Post notes that other Free Trade Agreements (such as that between the U.S. and Jordan) have language covering situations where invoices and other documents do not show the final destination, as Morocco is insisting, and would appreciate Department and U.S. agencies view how the issue should be interpreted under the U.S.-Morocco agreement. Particularly useful, both for guidance and to respond to Maani, would be information on how U.S. Customs is applying the agreement to transshipments. End Comment.

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